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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | |
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| 09/715,909 | 11/17/2000 | Ronald D. Flannagan | 35718/204664 | 5613 | |
| 29122 | 7590 08/05/2004 | | EXAMINER | | |
| | & BIRD LLP | | HAYES, ROBE | RT CLINTON | |
| | HI-BRED INTERNATIO | NAL, INC. | | | |
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| 101 SOUTH TYRON STREET, SUITE 4000 | | | 1647 | | |
| CHARLOT | CHARLOTTE, NC 28280-4000 | | | DATE MAILED: 08/05/2004 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| PERIOD FOR REPLY [check either a) or b)] a) The period for reply expiresmonths from the mailing date of the final rejection, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than \$\$X MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TOOL ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TOOL ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TOOL ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TOOL ONLY CHECK THE ADDRESS OF THE THIS WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. SEE MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. SEE MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. SEE MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. SEE MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. SEE MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. SEE MPEP TOOL ONLY CHECK THE WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. SEE MPEP TOOL ONLY THE FIRST THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED | | Application No. | Applicant(s) | | | |
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| Examiner Robert C. Hayes, Ph.D. Ref Robert C. Hayes, Ph.D. 1647 | Advisory Action | 09/715,909 | FLANNAGAN ET AL. | | | |
| THE REPLY FILED 01 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed domendment which places the application condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. **PERIOD FOR REPLY** [check either a) or b)** The period for reply expires on: (1) the mailing date of the final rejection. **PERIOD FOR REPLY** [check either a) or b)** The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no evert, however, with the statistion period or reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no evert, however, with the statistion period or reply expires on: (1) the mailing date of the final rejection, whichever is later. In no evert, however, with the statistion period of reply expires on the statistic previous of the period of the final rejection. Extensions of time may be obtained under 37 CFR 1.13(4)(a). The date on which the petition under 37 CFR 1.13(4) a late activated from: (1) the expiration date of the shortened statistory period for reply cipinally set in the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.13(4) as calculated from: (1) the expiration and the statist reply and the final rejection, even if finally rejected from: (1) the expiration and the statist reply reply received by reply received by the final rejection, even if finally rejec | Advisory Action | Examiner | Art Unit | | | |
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| to period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no overth, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REFLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706,07(f). Rethansions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (1) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 1. A Notice of Appeal was filed on Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal. 2. The proposed amendment(s) will not be entered because: (a) ★ they raise new issues that would require further consideration and/or search (see NOTE below); (b) ★ they raise the issue of new matter (see Note below); (c) ★ they are not deermed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ★ they present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. 3. ★ Applicant's reply has overcome the following rejection(s): See Continuation Sheet. 4. Newly proposed or amended claim(s) ★ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s). The applicant's rep | PERIOD FOR RE | PLY [check either a) or b)] | | | | |
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| 9. Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). BRENDA BRUMBACK SUPERVISORY PATENT EXAMINER | Claim(s) withdrawn from consideration: | | | | | |
| 10. Other: BRENDA BRUMBACK SUPERVISORY PATENT EXAMINER | 8. The drawing correction filed on is a) appro | oved or b) disapproved by th | e Examiner. | | | |
| SUPERVISORY PATENT EXAMINER | | t(s)(PTO-1449) Paper No(s) | 7 maca minus | | | |
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Continuation of 2. NOTE: new redundant claim 7f no longer has proper antecedent basis for the recitation of "sequence encoding the fusion polypeptide"; thereby, necessitating a new rejection under 112, 2nd pp.

Continuation of 3. Applicant's reply has overcome the following rejection(s): if later entered, the 112 2nd pp rejections would be obviated as well as the written descritption rejection under 112, 1st pp, as it relates to "comprising... fragments/polypeptides of interest".

Continuation of 5. does NOT place the application in condition for allowance because: the claims have not been limited to the Ostrinia nubilalis species described, and instead still encompass the order/genus of Lepidopteran; thereby, still not meeting the written description requirements under 112, 1st pp, for the reasons made of record. Applicants other arguments are currently moot, since the claim amendments have not been entered.

ROBERT C. HAYES, PH. D
PATENT EXAMINER

BRENDA BRUMBACK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600